

BRECKLAND COUNCIL

At a Meeting of the

STANDARDS COMMITTEE

**Held on Tuesday, 19 October 2010 at 2.15 pm in
Norfolk Room, Conference Suite, Elizabeth House, Walpole Loke, Dereham**

PRESENT

Mr M.D. Eveling JP
Mrs J. Jenkins (Chairman)
Mrs S.M. Matthews
Mrs M. Oechsle JP

Mr B.D Rayner
Mr F.J. Sharpe
Mr M. Whittley

Also Present

Mr J.P. Labouchere

In Attendance

Susan Allen

John Chinnery

Phil Daines

Helen McAleer

Jane Osborne

- Standards Officer
- Solicitor & Standards Consultant
- Development Services Manager (Capita Symonds for Breckland Council)
- Senior Committee Officer
- Committee Officer

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68/10 MINUTES

The minutes of the meeting held on 7 September 2010 were confirmed as a correct record and signed by the Chairman.

69/10 APOLOGIES

Apologies for absence had been received from Mr George Ridgway.

70/10 URGENT BUSINESS

There was none.

71/10 DECLARATION OF INTEREST

None.

72/10 NON-MEMBERS WISHING TO ADDRESS THE MEETING

Mr John Labouchere was in attendance, particularly for Agenda Items 6 and 8.

73/10 THE FUTURE OF THE STANDARDS REGIME

The Solicitor gave Members a brief update on the Government's proposals.

The whole Standards regime would be affected, with the abolition of Standards for England and changes to the powers of Standards

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Committees and to the Code of Conduct.

A new criminal offence of 'serious misconduct' would be introduced and Councillors would be required to register their personal interests, in a more prescriptive way than at present, including things likely to affect their actions. There would also be an extension to the Ombudsman's powers making their decisions legally enforceable.

According to the guidance issued so far, it would be up to the electorate to deal with Councillors who acted in an ineffective or irresponsible way. However, this implied that a lot of behaviour would be unregulated. More would be known once the Localism Bill was published, in November/December 2011.

Members discussed the possible changes and their implications and could not see how some of the proposals would work.

Mr Labouchere made a few points 'from the other side of the fence'. He felt the current system was weighted against the Councillor because:

- The principle of pre-examination did not give the 'accused' any opportunity to put their case;
- The subject was not allowed to know the details of the complaint;
- Cases could take many months to reach conclusion, during which time the Councillor was operating 'under a cloud'.

He said that there must be a better way of ensuring that there was a case to answer before costs were incurred.

The Chairman said that the Government was obviously in agreement with Mr Labouchere as they were abolishing the present system.

She asked Members for their views on the Committee's proposals to arrange further training and to discuss the terms of office of Standards Members.

It was agreed by all that it would not be worth progressing either item until more information was available.

The report was noted.

74/10 CONSULTATION: NEW CODE OF PUBLICITY

The Chairman asked Members if they had any concerns, from a Standards point of view, about the new draft Code of Publicity.

A Member asked if the third parties, referred to in paragraph 25, were bound by the Code of Conduct. The Solicitor could not confirm that as he was not sure exactly what the paragraph referred to.

Another Member said that he would have preferred to have been consulted on the abolition of the Code of Conduct. He could understand why the Standards regime was being abolished but not the Code.

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The Chairman asked for an item on a future agenda to discuss the whole process of the abolition of the standards structure and the way in which Breckland Council would manage public perception of the change. She suggested that other Standards Committees could be contacted to ask what they were doing.

The report was noted.

75/10 PREDETERMINATION BY PLANNING OFFICERS

The Development Services Manager was in attendance for this item.

The Chairman invited the Member who had raised this matter to explain her concerns.

Mrs Oechsle said that as a Parish Councillor she found the planning part of the website a very good resource. However, certain comments made by planning officers during pre-application negotiations, were being published amongst the supporting information submitted with planning applications. She felt that members of the public, seeing those comments, would consider that it was pointless for them to make representation as it appeared that the officer had already made his/her determination. She read out some examples.

She was concerned that there was no disclaimer from the Council and she asked how it could defend itself, particularly in relation to Delegated Decisions. From a public perception point of view, she thought it was relevant to discuss this matter.

The Development Services Manager said that it was a knotty problem. It had always been considered helpful to have pre-application discussions and he thought they should continue, but he was happy to discuss ways of protecting the Council and Officers.

Pre-application discussions fell into three main areas:

1. helping people with no knowledge of the system;
2. giving specialist advice; and
3. directing applicants to the appropriate agencies dealing with complex issues (eg drainage)

The advice given was always informal and usually confidential. If the issue was likely to be controversial the applicant was encouraged to speak to the Town or Parish Council and local people in advance of submitting an application.

Part of the problem was that Officers were under pressure to determine applications within a specified timeframe. Therefore no negotiations could take place once the application was submitted.

He acknowledged that it could sometimes appear, from comments made, that an Officer supported an application. However, that application still had to go through the formal process. The planning team now worked for Capita Symonds and had no power to approve applications. They made recommendations to Council Officers who actually made the decisions.

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Speaking from his professional viewpoint, Mr Whittle said that pre-application discussions were vital and saved time.

Mrs Oechsle agreed that they were important but said that it meant that once an application was validated the Parish Council and public could be unaware of months of discussions that might have taken place. Because of the documents published on the website, the public might jump to the conclusion that the application was already pre-determined. She felt that the process lacked checks and balance, particularly in relation to Delegated Decisions (those that did not get determined by the Development Control Committee).

Ward Members were advised not to have pre-application discussions, which could make it difficult for them to represent their community, but the applicant, agent and developer could.

The Solicitor asked if it would help if it were specifically mentioned on the website that pre-application discussions would be considered by Senior Officers but would not influence the decision.

Mrs Oechsle felt that it was important to include a disclaimer on every application so that the public would understand. She said that planning officers should be aware of public perception.

Mr Labouchere hoped that information would continue to be put on the website with a disclaimer.

The Development Services Manager was thanked for his explanations. He was pleased that the Member found the website useful and said that he was happy to work with the legal department to provide a disclaimer.

76/10 ITEMS FOR FUTURE AGENDAS (STANDING ITEM)

One item had been suggested:

- Managing public perception of the abolition of the Standards regime.

77/10 NEXT MEETING

The arrangements for the next meeting were noted.

The meeting closed at 3.20 pm

CHAIRMAN